

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6863

BILL NUMBER: HB 1414

NOTE PREPARED: Dec 31, 2004

BILL AMENDED:

SUBJECT: False Campaign Material.

FIRST AUTHOR: Rep. Welch

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

(A) The bill makes the intentional participation in the preparation, dissemination, or broadcast of paid political advertising or campaign material, or in the drafting of a letter to the editor, a Class A misdemeanor, if the advertising, material, or letter: (1) concerns the personal or political character or act of a candidate, or the effect of a public question to be submitted to the electorate; (2) is designed to or tends to elect, promote, injure, or defeat the candidate or a public question; and (3) contains information or a statement that is false, if a person knew the information or statement was false or acted with reckless disregard as to truth or falsity.

(B) The bill exempts a person who merely prepares, disseminates, or broadcasts the material or letter in the normal course of business.

(C) The bill provides that a candidate who violates this provision forfeits the nomination or public office (if elected), unless the violation was trivial or occurred despite the candidate's good faith.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (C) Under current law if a candidate for election is disqualified from candidacy after a primary, the Election Division is required to receive and file certificates of candidate selection in the case of a candidate replacement after a primary. The Division is also required to provide a certified list of the name and address of each candidate selected to each county circuit court clerk in the election district. The Election Commission rules on the validity of filed certificates within seven days of a general election.

Under the bill, the Election Division may see a small increase in administrative time to process any certificates of candidate selection for any candidates appointed to replace a candidate that were to violate the provisions of the bill.

Explanation of State Revenues: (A) *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: (A) *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

(C) Counties may experience a minimal increase in printing costs under the provisions of the bill, if more ballot reprints or “pasters” are produced for legislative or local offices. Under current law, if a candidate is appointed to replace a candidate from nomination that was disqualified, the county must either replace the ballots with the disqualified candidate’s name or apply a “paster” over the existing ballots.

Background: For the 2004 general election, optical scan ballots were about \$0.29 per ballot or \$290 per 1000 ballots. The cost of changing ballots for direct recording electronic voting systems would likely include the reprogramming cost and maintenance performed by a vendor.

Explanation of Local Revenues: (A) *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Indiana Election Commission, Indiana Election Division.

Local Agencies Affected: County election boards, circuit court clerks, trial courts, local law enforcement agencies.

Information Sources: Brad King, Co-Chair Indiana Election Division, Election Systems and Software (317) 913-0230.

Fiscal Analyst: Chris Baker, 317-232-9851.